

REMARKS

Claims in the case are 1-6, 8 and 9, upon entry of this amendment. Claim 1 has been amended, and Claim 7 has been cancelled herein. No claims have been added herein.

Claim 1 has been amended to include the subject matter of Claim 7 herein. Accordingly, Claim 7 has been cancelled herein.

Claims 1-9 stand rejected under 35 U.S.C. §102(a and/or b) as anticipated by or, in the alternative, under 35 U.S.C. §103(a) as being obvious over United States Patent No. 6,320,043 B1 (**Weber et al**), or United States Patent No. 5,749,964 (**Mann**), or United States Patent No. 4,415,124 (**Carduck et al**). These rejections are respectfully traversed with regard to the amendments herein and the following remarks.

Weber et al disclose a process for preparing a pulverulent polysaccharide derivative that involves: dissolving or soaking the polysaccharide derivative in a solvent(s); comminuting the soaked or dissolved polysaccharide derivative by means of thermal and/or mechanical liquid separation; and optionally drying the comminuted product. See the abstract, and column 2, line 34 through column 3, line 6 of Weber et al.

The particulate polysaccharides and particulate polysaccharide derivatives of the building material compositions of Applicants' present claims contain less than 5 wt. % with a particle size smaller than 15 μm , less than 2 wt. % with a particle size smaller than 10 μm , and less than 1 wt. % with a particle size smaller than 5 μm (the percent weights being based on the total weight of the particles). Weber et al do not disclose, teach or suggest pulverulent polysaccharide derivatives containing less than 5 wt. % with a particle size smaller than 15 μm , less than 2 wt. % with a particle size smaller than 10 μm , and less than 1 wt. % with a particle size smaller than 5 μm .

Applicants wish to point out that the particulate polysaccharides and particulate polysaccharide derivatives of their present invention have and provide improved properties, such as water retention capacity and dimensional stability, relative to prior art particulate polysaccharides and particulate polysaccharide

Mo-6051

derivatives, and in particular relative to those particulate polysaccharides and particulate polysaccharide derivatives of Weber et al. Attention is directed to Tables 5, 8 and 11 of the Examples of Applicants' specification (pages 19, 25 and 28). In the examples of Tables 5, 8 and 11, the comparative particulate cellulose ethers are Walocel® MKX 60000 PF 01 (Table 5, page 19), [Walocel®] MKX 40000 PP 01 (Table 8, page 25), and Walocel® VP-M-20678 (Table 11, page 28). Applicants submit that the Walocel® particulate cellulose ethers of Tables 5, 8 and 11 are representative of the particulate cellulose ethers of Weber et al. The results summarized in Tables 5, 8 and 11 demonstrate that particulate cellulose ethers according to the present invention provide improved physical properties (e.g., improved water retention capacity and dimensional stability) and formulation performance properties (e.g., tile slippage, tensile bond strengths, plastification and cracking) relative to comparative prior art particulate cellulose ethers that are, for example, representative of those of Weber et al.

Mann discloses a building material mixture that includes an inorganic binder and a cellulose ether that has been treated with a hydrophobizing agent. See the abstract of Mann. Mann does not disclose, teach or suggest a building material that includes cellulose ethers containing less than 5 wt. % with a particle size smaller than 15 μm , less than 2 wt. % with a particle size smaller than 10 μm , and less than 1 wt. % with a particle size smaller than 5 μm .

Carduck et al disclose a method of preparing micropowders of cellulose or cellulose ethers that includes: consolidating or embrittling the cellulose or cellulose ethers; and grinding the consolidated or embrittled cellulose or cellulose ethers such that they have a grain size distribution with at least 90 wt.% of less than 125 μm . See the abstract, and column 1, line 64 through column 2, line 10 of Carduck et al. Carduck et al do not disclose, teach or suggest micropowders containing less than 5 wt. % with a particle size smaller than 15 μm , less than 2 wt. % with a particle size smaller than 10 μm , and less than 1 wt. % with a particle size smaller than 5 μm .

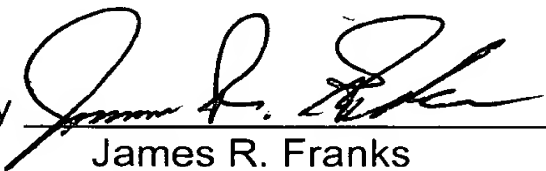
In light of the amendments herein and the preceding remarks, Weber et al, Mann and Carduck et al, either alone or in combination, do not disclose, teach or suggest the building material composition of Applicants' present claims, which

includes particulate polysaccharides or particulate polysaccharide derivatives that contain less than 5 wt. % with a particle size smaller than 15 μm , less than 2 wt. % with a particle size smaller than 10 μm , and less than 1 wt. % with a particle size smaller than 5 μm . As such, Applicants' present claims are deemed to be unanticipated by, and unobvious and patentable over Weber et al, or Mann or Carduck et al. Reconsideration and withdrawal of the present rejections is respectfully requested.

Applicants note with appreciation the withdrawal of all other prior rejections, as indicated on page 2 of the Office Action of 27 February 2004.

In light of the amendments herein and the preceding remarks, Applicants' presently pending claims are deemed to define an invention that is unanticipated, unobvious and hence, patentable. Reconsideration of the rejections and allowance of all of the presently pending claims is respectfully requested.

Respectfully submitted,

By 
James R. Franks
Agent for Applicants
Reg. No. 42,552

Bayer MaterialScience LLC
100 Bayer Road
Pittsburgh, Pennsylvania 15205-9741
(412) 777-3808
FACSIMILE PHONE NUMBER:
(412) 777-3902
s:\shared\kgb\jrf296respf